IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL NO. 240 OF 1987

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Appellant

Versus

KAPURBA WD/O. RANJITSINH NARSINH ZALA & ORS. - Respondent

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Appearance :
Ms. Maya Desai for Appellant(s).
Shri Jigar Raval for Respondent (s) : 1 - 6.
None for Respondent No. 7.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 02/07/2007

ORAL JUDGMENT

Being aggrieved by the judgement and award passed by the learned Member, Motor Accident Claims Tribunal (Auxiliary),

Sabarkantha at Himmatnagar in M.A.C.P. No.141 of 1984 on 23rd May, 1986, the Gujarat State Road Transport Corporation is before this Court with a submission that the claim suffers with the vice of excessiveness.

2. As the appellant is not challenging the accident and the liability of the driver, i. e. Baldev Joshi, of bus bearing Registration No. GTR-9978 and its liability to pay compensation to the original claimants, this Court is not required to dwell on the factual arenas unnecessary. Suffice it to say that one Ranjitsinh, driver of GRS-6925, a passenger bus belonging to the Gujarat State Road Transport Corporation, died in an accident, which was caused by the bus bearing Registration No. GTR-9978.

After recording the evidence and hearing the parties, the learned Tribunal below awarded a sum of Rs.2,59,000/- against the claim of Rs. 4 Lakhs in favour of the claimants of Ranjitsinh.

3. The appellant-Corporation has confined its claim to a sum of Rs.1,22,500/- only.

3. After taking me through the judgement, Ms. Desai, learned Counsel for the appellant, submitted that the learned Tribunal below was not justified in awarding the compensation under the head of provident

fund/contribution of the employer and under the head of gratuity. She submits that at the time of the accident, the emoluments of the deceased were Rs.1121.75, but, on the basis of the calculation, which was submitted before the Tribunal, at the time of retirement, his salary could have been Rs.1,966.75, the Tribunal took out the average income to be Rs.1,500/-, out of which it separated a sum of Rs.400/- towards personal expenses of the deceased and decided that the monthly dependency of the family was Rs.1,100/-. Applying the multiplier of fifteen in case of the deceased of 42 years, the Tribunal made the award. At the same time, it awarded a sum of Rs.24,000/- under the head of loss to the estate because the deceased would not be able to receive the provident fund contribution, which the owner was required to deposit simultaneously. The learned Tribunal below also awarded a sum of Rs.24,500/- under the head of gratuity.

4. At the time of hearing, Ms. Desai has submitted that she has confined her attack against the award of compensation under the heads of provident fund and gratuity. She submitted that gratuity would be available to a person if he completes his total service. In a case where the person dies, then, entitlement of the successors would terminate on the date of the death and by no stretch of imagination, it can be extended further. For the provident fund, it was submitted that the learned Tribunal below on one side was taking higher income and at the same

time, without reducing anything, which would have been necessary for the deceased to deposit under the head of provident fund, has awarded the money.

5. Shri Jigar Raval, learned Counsel for the respondents-claimants, though tried to support the judgement was unable to do it on any legal foundation.

6. So far as the question of gratuity is concerned, the amount of gratuity is to be paid on completion of particular period and on the basis of certain calculation. If a particular person does not complete his service, then, such person would not be entitled to the benefit of gratuity. The service bond may be snapped either by removal, termination, resignation or by death. The law does not say that such person if dies while on the chair, his successors would be entitled to claim the gratuity. Such gratuity, after the death, would not be earned by the deceased, therefore, it would not be the estate, which can pass on to the successors.

7. So far as the loss to the estate under the head of provident fund is concerned, this Court must hold that the learned Tribunal below was unjustified in making the award under the said head, less appreciating that in a case where the compensation is to be calculated

and the Court decides that what could be the reasonable income at the time of the death, though actual income is available in the records, then, the Court would not be entitled to say that out of such anticipated income, the deceased would have made some contribution to the provident fund and thereafter, he would have been entitled to the contribution. Death severs every relation whether it is between the husband and wife, father and children, master and servant or anyone. Once the relations come to an end, then, the future benefits, which would be the result of continuity of the relations, would not be available to such person or his successors.

8. The learned Tribunal below was unjustified in making the award under the heads of loss of dependency and provident fund and loss of gratuity amount. The said part of the award, in the opinion of this Court, is illegal. It deserves to and is, accordingly, quashed. Rest of the award is maintained. The appeal is dismissed. No costs.

[R.S.Garg, J.]

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